HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION NO. 13482 OF 2006

Between:

B. Anantha Ramaiah S/o Hanuman das, Prakasam District

...Petitioner

AND

1. The Government of India rep by its Under Secretary to the Ministry of Home Affairs (F.F.Division), New Delhi and one another

.....Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION NO. 13482 OF 2006

ORAL ORDER:

The Writ Petitioner B. Anantha Ramaiah, filed the present Writ Petition for Writ of Mandamus or any other appropriate Writ or direction declaring the order passed by the first respondent in Letter NO. 52/CC/A.P/160/2005-FF/SZ dated 13.1.2006 rejecting the claims of the petitioner for sanction of pension under Swatantrata Sainik Samman Pension Scheme 1980 as illegal and arbitrary and consequently direct the first respondent to sanction the freedom fighter pension to him under the Swatantrata Sainik Samman Pension Scheme 1980 from the date of the application i.e., 14.10.1998 and pay the arrears and pass such other or further order or orders as deem fit and proper in the circumstances of the case.

Sri P. Gangarami Reddy, learned counsel representing the petitioner had taken this court through the contents of the affidavit filed in support of the Writ Petition and that the recommendation of the State Government for the rejection or refusal of the pension under the Swatantrata Sainik Samman Pension Scheme, cannot be sustained. Counsel had taken this Court through the relevant proceedings placed before this court and also had taken through the counter affidavit filed by the first respondent in this regard and would maintain that in the light of the facts and circumstances and also in the light of the view expressed in K. RAMASESHU VS. HON'BLE LABUR COURT, GUNTUR,

REPRESENTED BY ITS PRESIDING OFFICER AND OTHERS[1], the Writ Petition has to be allowed.

Per contra, the learned Assistant Solicitor General would maintain that in the light of the priority stated in the counter affidavit filed by the first respondent, that unless all the contentions are satisfied, the same cannot be granted. The learned counsel however would submit that may be, the petitioner may be entitled to the relief prayed for provided the petitioner is able to satisfy the other conditions under the scheme aforesaid.

Heard the counsel and perused the records.

The petitioner is a freedom fighter and on 14.10.1998, he made an application to the respondent for grant of freedom fighters pension under Swatantrata Sainik Samman Pension Scheme. It is also the case of the petitioner that the Government by its letter No. 49545/FF-II-A(1)/98-1 dated 12.8.2002, after enquiry recommended his application for grant of pension. The first respondent by his letter dated 20.11.2002 required the missing 2nd page of the application and two years proven jail sufferings of two freedom fighters. The second respondent by his letter No. 79558/F.F.II) dated 13.3.2003 submitted the petitioner's application in full shape. Regarding certificates of proven Jail sufferings the Government of A.P have informed that their proven Jail sufferings are in the PPO numbers. As there was no response from the first respondent the petitioner was constrained to file the Writ Petition No. 24258 of 2005 and this Court disposed of the Writ Petition by an order 14.11.2005 directing the first respondent to take appropriate decision in view of the letter addressed by the 2nd respondent. The first respondent without taking into consideration recommendations made by the 2nd respondent rejected his claims for grant of freedom fighter pension under SSS pension scheme 1980 by an order dated 13.6.2006.

It is also averred in paragraph 3 that the District Collector, Prakasam District in Proceedings Rc.C4/247/99 dated 14.3.2001 has held that the petitioner is a freedom fighter and eligible for the pension and

recommended for sanction of the pension. Thereafter, the 2nd respondent on 12.8.2002 forwarded the application form along with the required documents to the first respondent recommending the sanction of the freedom fighter pension. Thereafter, the first respondent by letter dated 20.9.2002 requested the State Government to send application complete in all respect. The State Government on 13.3.2003 has sent the application form in full shape along with other required information. The first respondent without considering the certificates enclosed along with application form and the recommendations of State Government rejected the claim for sanction of pension and the same is not legal and valid.

It is further stated that the petitioner participated in Quit India Movement and was arrested by police and kept in custody but escaped from the custody. The police issued arrest warrant. Due to the arrest warrant the petitioner went under ground for six months. The original arrest warrant, personnel knowledge certificates of two pensioners and other required certificates were enclosed with the application form. The first respondent on one pretext or the other is delaying the matter. The petitioner is eligible for the freedom fighter pension under Swatantrata Sainik Samman Pension Scheme. The action of the first respondent in not sanctioning the pension is unjust and improper.

Further, it is averred that the petitioner made an application to the respondents on 14.10.1998 seeking for grant of pension. The second respondent after thorough enquiry recommended for sanction of the pension by letter No.49545 dated 12.8.2002. All the original certificates were enclosed along with the application form which have been verified by the 2nd respondent and recommended for sanction of pension. He further submit that the recommendations made by the 2nd respdnent are binding on the first respondent and the first respondent has to follow the recommendations. The recommendations made by the 2nd respondent are based on enquiry and records and the same cannot be ignored simply and the action of the first respondent in ignoring the recommendations of State Government is illegal and arbitrary.

It is also further stated that the petitioner is aged 81 years and for the last eight years he has been pursuing the matter. The second respondent has recommended for sanction of pension as long back as in the year 2002. As the action of the first respondent in not sanctioning the pension to the petitioner being not legal or valid. The petitioner has no other option except to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

In the counter affidavit filed by the first respondent who is the concerned Under Secretary in the Ministry of Home Affairs, Freedom Fighter's Division, New Delhi, it is averred in paragraph two that the claims for the grant of Samman Pension can be considered by the Central Government only when these are duly verified and recommended by the Sate Governments/U.T. Administrations concerned and the basis of such recommendation is in accordance with the provisions of the Scheme. No action is, therefore, possible on the applications sent directly to the Central Government without routing through the State Government/U.T.Administration concerned. As per provisions of the Scheme, the verification and recommendation report is mandatory in view of the fact that the documents and other evidences of the claims are in the possession of the State Government/U.T. Administrations and not of the Central Government. Verification cum entitlement to pension report of the State Government is mandatory to grant central pension and there are provisions in the scheme in this regard. Para 6 of the Scheme reads as:

> "Persons who consider themselves eligible for Samman Pension under the Scheme should apply in duplicate on the prescribed application form. One form duly filled and supported by required documents as proof of claim of suffering should be sent to the Chief Secretary to the State Government/Union Territory Administration concerned. The second copy should be sent to the Deputy Secretary to the Government of India, Freedom Fighters Division, Ministry of Home Affairs, First Floor, Lok Nayak Bhavan, New Delhi-3 as an advance copy".

Further para 10 of the Scheme states:-

> "The claim of the applicant will be scrutinized in the State Government/Union Territory Administration in consultation with State Advisory Committee on the basis of copy of application submitted to them. After receipt of State Verification and entitlement to pension report, the claim of the applicant is scrutinized and if found eligible pension is granted----Applications whose applications are not approved are duly informed."

Circular No. 8/25/77-FF(P), dated 12.8.1977 issued by this Ministry states that –

> "------ it is again emphasized that no Central Pension should be sanctioned in future except on the basis of State Government's verification and recommendation. In case no State Report has been received, the case should be referred to the State Government and finalized only on the basis of their specific recommendations."

The Hon'ble Division Bench of the High Court of Maharashtra in Writ Petition No. 2257 of 2000 in the matter of Vasantrao Balaji Naladkar Vs. The State of Maharashtra and others vide order dated 14.6.2000 has upheld the mandatory requirement of the State Government's verification report and inter alia held:

> "Another aspect to be noted is that the mandatory verification report from the State Government was also not available in the case of the petitioner. This definitely makes the case of the petitioner doubtful so far as his sufferings are concerned……The Writ Petition stands rejected in limine".

The Hon'ble High Court of Patna vide its order dated 20.7.2001 in

Writ Petition No. 8629/2001 in the matter Baldeo Prasad Azad Vs. the Union of India and others has expressed:

> "……..Thus, this court finds substance in the submission of the learned Senior Standing Counsel that if there is no report regarding entitlement to pension in favour of the applicant and in the present case the petitioner, the Central Government cannot even scrutinize the claim."

Certain principles propounded by the Apex Court regarding the Scheme in its judgment in the case of M.L. Bhandari and others Vs. Union of Inida (AIR 1993 SC 2127) are reproduced as under:

> "The petitioners would undoubtedly be entitled to the benefit of the scheme provided, of course, they produce the relevant material in support of their claim".
>
> "As regards the sufficiency of the proof, the Scheme itself mentions the documents which are required to be produced before the Government. It is not possible for this Court to scrutinize the documents which according to the petitioners, they had produced in support of their claim and pronounce upon their genuineness. It is the function of the Government to do so. We would, therefore, direct accordingly."
>
> "the pension should, of course, be sanctioned only after the required proof is produced."

It is further stated that for the purpose of grant of Samman Pension under the Scheme, a freedom fighter is:-

(a) A person who had suffered minimum imprisonment of six months in the mainland jails before Independence. Ex. INA personal are also eligible for pension if the imprisonment/detention suffered by them was outside India for six months or more. In case of women and SC/ST freedom fighters, the minimum period of actual

imprisonment for legibility of pension is three months.

(b) A person who on account of his participation in freedom struggle remained underground for six months or more provided he was:

(i) a proclaimed offender ; or

(ii) one on whom an award for arrest/head was announced; or

(iii) one whose detention order was issued but not served.

Voluntary underground suffering or self-exile for party work under the command of the party leaders is not covered as eligible sufferings for pension under the Scheme.

© A person who on account of participation in the freedom struggle was interned in his home or externed from his district under the orders of the competent authority for six months or more.

(d) A person whose property was confiscated or attached and sold due to participation in the National Freedom Struggle under the orders of the competent authority.

(e) A person who permanently incapacitated during firing or lathi charge.

(f) A person who lost his Government job (Central or State Government, including job in local bodies) and thus deprived means of livelihood for participation in the National Freedom struggle.

(g) A person who was awarded the punishment of 10 strokes of caning/flogging/whipping.

It is further averred in paragraph 5 that the applicant should furnish the documents indicated below, whichever is applicable, in order to prove his claimed sufferings for grant of pension under the scheme.

(a) in case of imprisonment a certificate from the concerned jail authority, District Magistrate or the State Government,

indicating the period of sentence awarded, date of admission, date of release, facts of the case and reasons for release. In case records of the relevant period are not available, a Non-Availability of Records Certificate (NARC) from the concerned authority along with two Co-Prisoners' Certificates (CPC) from the freedom fighter pensioners who had a proven jail suffering of one year is required. In case the certifier happens to be a sitting MP or MLA or Ex. MP/.Ex MLA, only one Co-Prisoners' Certificate in place of two is required- the co-prisoner certificate given by ex-legislators are accepted but the applicant is required to furnish a sworn affidavit giving details of actual imprisonment suffered by him.

(b) For claims of underground suffering, documentary evidence by way of Court's/Government's order proclaiming the applicant as an offender, announcing an award on his head or for his arrest or ordering his detention. In the absence of such certificate form official records, a Non-Availability of Records Certificate (NARC) from the concerned authorities along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who had undergone imprisonment for a period of at lest two years or more is required.

(c) For claims of internment or externment, orders issued by the competent authority from the official records. In the absence of official records, a non-Availability of Records Certificate (NARC) from the concerned authorities along with a certificate from prominent freedom fighters who had themselves undergone suffering of imprisonment for two years or more.

(d) In case of confiscation and sale of property, orders of dismissal or removal from service for taking part in the

National Freedom Struggle, orders of the competent authority is required.

(e) For claims of permanent incapacitation;

(i)Certificate from the District Magistrate stating that permanent incapacitation was done by bullet injury/lathi charge sustained during participation in the National Freedom Struggle.

(ii) Medical certificate from the Civil Surgeon in support of the handicap.

(f) For claims of punishment of 10 strokes of caning/flogging/whipping, copies of orders passed by the competent authority from the official records.

(g) For claims of martyrdom, evidence from official records or news papers of the relevant time in support of killed in action or in detention tec.

It is averred in paragraph 6 of the counter affidavit that the NARC should not be general or vague and should conform to the instructions issued by the Government of India, Ministry of Home Affairs, including circular No. 8/12/95-FF(P) dated 7.6.1996 which was reiterated on 2.11.1998. The instruction, inter-alia, requires the State Governments to issue NARC only after due verification from all the sources. The NARC can be treated valid only when it is furnished in the following manner:-

> "All concerned authorities of the State Government who could have relevant records in respect of the claim of the applicant, have been consulted and it is confirmed that the official records of the relevant time are not available."

It is further averred in paragraph 7 that the Government of Andhra Pradesh vide their letter No. 49545/FF II-A(1)/98-1, dated 12.8.2002 had recommended and forwarded a copy of the application dated 14.11.1997 of the petitioner (Shri B. Anantha Ramaiah) for grant of Swatantrata Sainik

Samman Pension. The petitioner has claimed underground suffering. The State Government recommended the claim of the petitioner on the basis of the report of the District Collector, Prakasam District. In support of his claimed suffering, he has submitted a copy of the non-availability of records certificate (NARC) dated 14.1.1992 issued by the Station House Officer, Cumbum and Personal Knowledge Certificates (PKCs) dated 16.11.2001 from Shri P.N. Reddy, PKC dated 27.7.2001 from Shri M.V.S.Reddy and a copy of the "Arrest Warrant", dated 22.8.1942 issued by the Sub-Collector, Camp at Cumbum. The petitioner has also submitted a copy of "Teacher's Certificate" dated 26.5.1955 in support of his date of birth.

The application forwarded by the State Government was incomplete and PKCs issued by Sri P.N. Reddy and M.V.S.Reddy were also not supported by their two years proven jail sufferings. The State Government was requested to forward the application complete in all respect along with certificates relating to proven jail sufferings of the certifiers vide Ministry's letter dated 22.11.2002. The petitioner visited the Respondent Ministry and submitted a copy of State Government letter No. 49545/FF11-A(1)/98-1, dated 12.8.2002, on 2.12.2002 which has already been received in the Ministry. Thereafter the petitioner has sent his application dated nil along with a copy of the letter dated 14.3.2001, addressed to Deputy Secretary, Government of Andhra Pradesh by the Collector and District Magistrate, Prakasam District, Ongole, copy of State Government letter No. 49545/FF11-A(1)/2002-1 dated 13.3.2003 which was not received earlier in the Ministry, as per record, vide a D.O letter dated 4.7.2004 of Shri Suravaram Sudhakar Reddy, Hon'ble Member of Parliament (Lok Sabha). The respondent has again reminded the State Government on 21.4.2005 in this regard. But no reply has been received so far. Aggrieved with the position stated above the petitioner has filed W.P.No. 24258 of 2005 against the Respondent. No copy of W.P was received by the Respondent and hence no counter affidavit was filed by the respondent. On receipt of order dated 14.11.2005 passed by the

Hon'ble Andhra Pradesh High Court, the claim was again examined.

The petitioner was not found eligible for grant of Central Samman pension due to the following deficiencies/shortcomings:-

(i) The petitioner had failed to produce acceptable primary ;evidence to establish his underground suffering by way of producing a copy of the order declaring himself as (a) a proclaimed offender; (b) one on whom an award for arrest or on head was announced; or (c) one for whose detention order was issued but not served , etc.

(ii) The petitioner had not furnished any valid NARC from the State Government. In the absence of a valid ;NARC, secondary evidence (i.e. PKC) cannot be considered.

(iv) The NARC dated 14.1.1992 issued by the Station House Officer, Cumbum, is not acceptable, as the same is not in the prescribed manner. It has not been issued by the State Government and does not contain all the ingredients prescribed therefore.

(v) However, the PKCs submitted by the petitioner have been scrutinized, but these are also not found acceptable for the reasons mentioned below:

(a) PKC dated 16.11.2001 of Shri P. N. Reddy, is not acceptable, as ;

a.(i) the certifier has certified that the petitioner was underground from 24.8.1942 to 27.2.1943 whereas he has claimed six months underground suffering (without indicating any specific period).

a. (ii) the certifier has certified that the petitioner was underground for the reasons that "…….. Ordered to be externed from his district, or Interned in his home for a period of more than six months…." Whereas the petitioner did not claim the same.

b. PKC dated 27.7.2001 of Shri M.V.S. Reddy, is not acceptable, as; (i) the certifier has certified that the

petitioner were underground from 24.8.1942 to 27.2.1943 whereas the petitioner has claimed six months underground suffering (without indicating any specific period).

b (ii) the certifier has not furnished any proof of his own jail suffering of two years.

b (iii) the certifier has not mentioned any reason for the petitioner's absconsion for which he had gone underground . These PKCs therefore raise further doubts regarding the bonafide and genuineness of his claim.

(v) The petitioner has submitted a copy of an "Arrest Warrant" dated 22.8.42 issued by Sub-Collector, Camp at Cumbum on a plain paper. Issue of an Arrest Warrant does not make a person eligible for Samman Pension unless the same is followed by an order declaring the person (a) a proclaimed offender or (b) one on whom an award for arrest or on head was announced or (c) one for whose detention order was issued but not served.

(vi) The petitioner has submitted a copy of "Teacher's Certificate" dated 26.5.1955 wherein it was mentioned the petitioner date of birth as 10.4.1928. Hence, he was only 14 years of age during his claimed underground suffering from 24.8.1942 to 27.2.1943, which has also been verified by his certifiers Shir P.N. Reddy and M.V.S. Reddy. This further raises sufficient doubt about the bonafide and genuineness of his claim.

(vii) Subsequently, a photo copy of the State Government's letter No. 79558/FFII(I)/2002-1 dated 13.3.2003 has been furnished (original of which has not been received in this Ministry), which states, inter

alia, as follows:-

> "…..the Application Form in full shape is herewith enclosed and in regard to the certificates of proven jail sufferings, PKC certifiers, i.e., Sarvasri P.N. Reddy, PPO No. 3868 and M.V.S.Reddy, PPO NO. 3128, have informed that they were submitted their proven jail sufferings at the time of sanction of Central Pension. Now the certificates are not available with them. They have given written statement with a request to refer their files with PPO numbers in which the Central Pension was sanction to them, if certificates of proven jail sufferings are still found necessary."

It is also stated that the claim of the petitioner was examined keeping in view the Judgment of Hon'ble High Court's passed in W.P.No. 24258/2005, available records, documents produced by him and the applicable provision of SSS Pension, 1980 and the case was rejected on 13.1.2006.

It is further stated that the person claiming suffering as a freedom fighter has to satisfy conditions laid down under the SSS Pension Scheme, 1980, to be eligible for pension.

Relating to the averments made in Paragraph 5 of the affidavit filed in support of the petition, it is stated that the recommendation of the State Government is not binding on the Central Government if the conditions necessary for the grant of SSS pension are not fulfilled. The Hon'ble High Court of Patna in C.W.J.C No. 8665/97, in the case of Kishori Singh Vs. Union of India and others, vide judgment dated 8.1.1999 has held that:

> "it is true that the Central Government will grant Swatantrata Samman Pension Under the aforesaid Scheme of 1980 on the recommendation of the State Government, but the recommendation of the State Government is not binding on the authority granting such pension."

"----- the recommendation is sent to the Central Government for consideration and not for granting pension. In other words, the recommendation of the State Government is not final or conclusive. It is for the authority of the Central Government granting such pension to make further scrutiny in the matter and take final decision."

The impugned order dated 13.1.2006 rejecting the claim of the petitioner , no doubt is an order made in detail. In para 6 of the said order it was specified as under:

" On examination of your claim, it is found that your claim is not eligible for grant of Central Samman pension due to the following deficiencies/shortcomings:-

(i) You have failed to produce acceptable primary evidence to establish your underground suffering by way of producing a copy of the order declaring yourself as (a) a proclaimed offender; (b) one on whom an award for arrest or on head was announced; or (c) one for whose detention order was issued but not served, etc.

(ii) You have not furnished any valid NARC from the State Government (as per para 4 above). In the absence of a valid NARC, secondary evidence (i.e. PKC) cannot be considered.

(iii) The NARC dated 14.1.1992 issued by the Station House Officer, Cumbum, is not acceptable, as the same is not in the prescribed manner. It has not been issued by the State Government and does not contain all the ingredients prescribed therefor (as mentioned in para 4 above).

(iv) However, the PKCs submitted by you have been scrutinized, but these are also not found acceptable for the reasons mentioned below.

(a) PKC dated 16.11.2001 of Shri P.N. Reddy, is not acceptable, as;

a. i) the certifier has certified that you were underground from 24.8.1942 to 27.2.1943 whereas you have claimed six months underground suffering (without indicating any specific period).

a. ii) the certifier has not furnished any proof of his own jail suffering of two years. It is not readily believable that any freedom fighter could have submitted his own jail certificate (in original), without keeping a copy or details of the same for his own record.

a. iii) the certifier has certified that you were underground for the reasons that "……..Ordered to be externed from his district, or Interned in his home for a period of more than six months….", whereas you did not claim the same.

(b) PKC dated 27.7.2001 of Shri M.V.S. Reddy, is not acceptable, as;

b. (i) the certifier has certified that you were underground from 24.8.1942 to 27.2.1943 whereas you have claimed six months underground suffering (without indicating any specific period).

b. (ii) the certifier has not furnished any proof of his own jail suffering of two years. It is unbelievable that any freedom fighter could have submitted his own jail certificate (in original), without keeping a copy or details of the same for his own record.

b. (iii) the ceritifier has not mentioned any reason for your absconsion for which you had gone underground.

These PKCs therefore raise further doubts regarding the bonafide and genuineness of your claim.

(v) You have submitted a copy of an "Arrest Warrant" dated 22.8.42 issued by Sub-Collector, Camp at Cumbum on a plain paper. Issue of an Arrestr Warrant does not make a person eligible for Samman pension unless the same is followed by an order declaring the person (a) a proclaimed offender; (b) one on whom an award for arrest or on head was announced; or (c) one for whose detention order was

issued but not served (as stated in para 4 above).

(vi) You have submitted a copy of "Teacher's Certificate" dated 26.5.1955 wherein you have mentioned your date of birth as 10.4.1928. Hence, you were only 14 years of age during your claimed underground suffering from 24.8.1942 to 27.2.1943 which has also been verified by our certifiers S/Shri P.N. Reddy and M.V.S. Reddy. This further raises sufficient doubt about the bonafide and genuineness of your claim.

(vii) The Government of Andhra Pradesh, vide this letter no.49545/FF.II-A(I)/98-1 dated 12.8.2002 forwarded your application dated 14.11.1997 and recommended for grant of Swatantrata Sainik Samman Pension (S.S.S.) Pension. The application was incomplete and was sent back to the State Government on 22.11.2002 for re-examination.

(viii) Subsequently, a photo copy of the State Government's letter no.79558/FF.II(I)/2002-1 dated 13.3.2003 has been furnished (and which has not been received in this Ministry), which states, inter alia, as follows:-

"…….the Applicatioin Form in full shape is herewith enclosed and in regard to the certificates of proven jail sufferings, PKC Certifiers, i.e, Sarvasri P.N. Reddy, PPO No.3868 and M.V.S. Reddy, PPO NO. 3128, have informed that they were submitted their proven jail sufferings at the time of sanction of Central Pension. Now the certificates are not available with them. They have given written statement with a request to refer their files with PPO Nos. in which the Central Pension was sanctioned to them, if certificates of proven jail sufferings are still found necessary."

On 12.8.2002 by a letter No. 49545/FF.II-A(1)/98-1 of the A.P. Revenue (FF-II) Department, the Government of Andhra Pradesh, Revenue (FF.II) Department, had communicated as under:

"From:
The Principal Secretary to Government,
Revenue (FF.II) Department,
A.P. Secretariat, Hyderabad.

To
The Dy.Secy. To Govt. of India,
MOH.A (FF.Division), Lok Nayak Bhavan,
Khan Market, New Delhi (W.Es).

Sir,

Sub:- SSSPS 1980-verification report of State Govt. in respect of Sri B.Ananta Ramaiah, S/o. B. Hanumadas of Prakasam, District for grant of central FFS pension under SSPS 1980 – submitted – Reg.

Ref:1) From the G.O.I, MOHA, New Delhi, Lr.No: 58488/FF.II (2)/2002, dt. 28-6-2001.

2) From the collector, Prakasam, District, Lr.No.:Rc.C4/247/99, dt.28-7-2001.

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I am to forward herein the documents in respect of freedom Fighter on B. Ananata Ramaiah, S/o.B. Haunmadas of Prakasam District, Submitted by the collector in the reference 2nd cited together with the following certificates for necessary action.

1. Application form.
2. Arrest Warrant (in original).
3. Age certificate.
4. Affidavit.
5. PKC from two prominent Freedom Fighters.

Based on the verification report and specific recommendation of the District collector, Prakasam District and certificates produced by the applicant in support of his claim, the proposal of the applicant for grant of central Freedom Fighter pension under SSSPS 1980 is here by recommended by this State Government.

The action taken in the matter may kindly be intimated."

Reference C4/247/99, dated 14.3.2001 addressed by the Collector and the District Magistrate to the Deputy Secretary to Government , Revenue (FF.II) Department, A.P. Hyderabad also had been relied upon. In reference No. 112/71/2002-FF/87, the Government of India, Ministry of Home Affairs addressed to the Secretary to the Government of Andhra Pradesh, Revenue (FF.II) Department, Andrhra Pradesh Secretariat,

Hyderabad , which is as under:

> "Sub:- Swatantrata Sainik Samman Pension Scheme, 1980- case of Sri B.Ananata Ramaiah S/o. B. Hanuman Das, Cumbum Mandal, District, Prakasam- Andhra Pradesh-Reg.
>
> I am directed to refer to the State Government's letter No:49545/FF.II-A(1)98-1, dated 12-8-2002 on the subject mentioned above and to say that the application forwarded by the State Government is incomplete (2nd page is missing). Personal Knowledge certificates issued by Sri P.N.reddy and M.V.S.Reddy are also not supported by their two years proven Jail sufferings. It is requested that application complete in all respect along with certificate relating to proven jail sufferings. The certifiers may please be furnished in this Ministry at an early date to take further action in the matter".

Like wise another letter No. 79558/FF.II(1)/2002-1 dated 13.3.2003 also had been relied upon. The letter addressed by the Principal Secretary to Government, Revenue (FF.II) Department, A.P. Secretariat, Hyderaba, to the Under Secretary to G.O.I, Ministry of Home Affairs, Lok Nayak Bhavan, Khan Market, New Delhi and the same reads as under:

> "I am to invite kind attention to the references cited and inform you that the application form in full shape is herewith enclosed and in regard to the certificates of proven jail sufferings, PKC certifiers, i.e., Sarva sri P.N.Reddy, PPO No:3868 and M.V.S.Reddy, PPO No:3128 have informed that they were submitted their proven Jail sufferings at the time of sanction of central pension. Now the certificates are not available with them. They have given written statement (copy enclosed) with a request to refer their files with PPO Nos. in which the central pension was sanctioned to them, if certificates of proven Jail sufferings are still found necessary.
> I request you to take necessary action with the above information."

Though certain contentions had been pointed out while making an order of rejection, the principal contention advanced by the learned

counsel representing the petitioner is that under there is a recommendation of the State Government, the same is binding on the Central Government and the material which has been already submitted would establish the case of the petitioner and hence, rejection is bad. In PANJALA RAJAIAH VS. GOVERNMENT OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTERS DIVISION, NEW DELHI, the learned Judge of this court at paragraphs 8 and 9 observed as under:

> "Under paragraph 6, a person who considered himself eligible for FFP has to apply in duplicate in the prescribed application form. One copy should be sent to the Chief Secretary to the State Government/Union Territory Administration and the second copy should be sent to the Deputy Secretary, Ministry of Home Affairs, New Delhi. Such application be accompanied by necessary evidence to prove the claim as enumerated in paragraph 9. The note below paragraph 9 is to the effect that the certificate issued by veteran freedom fighters in respect of underground suffering, internment/externment is also a valid background for proof of claim. Be that as it is, under paragraph 10, the claim of the applicant shall have to be scrutinized by the State Government/U.T. Administration in consultation with the State Advisory Committee and it is only after receipt of verification entitlement report, the claim of the applicant is scrutinized by the Government of India.
>
> A reading of paragraphs 6 and 10 together makes it abundantly clear that Government of India is required to scrutinize the application for FFP only with reference to verification and entitlement report provided that the reference to verification and entitlement report provided that the applicant is found eligible for such grant. The report/recommendation of the State Government is given utmost importance in the scheme. The report, therefore, cannot be rejected by the Central Government on the ground that the claim is doubtful in spite of the report of the State Government. This Court is not able to agree with the submission of the learned Central Government Standing Counsel that the recommendation of the State Government is not binding on the Central Government. A certified copy of

> the unreported judgment of the High Court of Patna in Kishori Singh v. Union of India (supra) is not placed before this Court. On plain reading of paragraph 10, this Court is convinced that the report of the State Government does not only give right to the applicant for being considered for grant of FFP but also in certain cases final and binding."

In the light of the recommendation referred to supra and also in the light of the decision of this court specified above, it is clear that the recommendation is made by the State Government. When the relevant material is available automatically the petitioner is entitled to the relief since such recommendation being binding on the Central Government.

In view of the same and in the light of the facts and circumstances which had been explained, the Writ Petitioner is bound to succeed but however, in the light of the reasons which had been recorded in the impugned order, this court is of the considered opinion that the same requires re-consideration especially in the light of the decisions specified above and hence, let the Competent authority reexamine the issue in the light of the decisions specified supra and also in the light of the recommendations mentioned above and decide the matter afresh in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, with the above direction the Writ Petition is disposed of. No order as to costs.

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P.S. NARAYANA, J

Date: . .2007
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[1] 2006 (3) ALT 779